

### **REMARKS**

This is a full and timely response to the outstanding final Office Action mailed August 17, 2006. Upon entry of the amendments in this response, claims 1 – 5 are pending. In particular, Applicant has amended claim 3, and has canceled claim 6 without prejudice, waiver, or disclaimer. Applicant has canceled claim 6 merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of this canceled claim in a continuing application, if Applicant so chooses, and does not intend to dedicate the canceled subject matter to the public. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

### **Sole Inventor**

The Office Action indicates that the application currently names joint inventors. If this is indeed the case, Applicant respectfully asserts that such is an error as the inventor, Steven Edward Ireland, is the sole inventor of the application.

### **Rejections Under 35 U.S.C. §103**

The Office Action indicates that claims 1 - 6 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Declour* in view of *Hodgson to Hupp*. With respect to claim 6, Applicant has cancelled this claim and respectfully asserts that the rejection of claim 6 has been rendered moot. With respect to the remaining claims, Applicant respectfully traverses the rejections.

In this regard, Applicant respectfully asserts that the combination of references is legally deficient for the purpose of rendering the pending claims unpatentable. In particular,

Applicant respectfully asserts that the references, either individually or in combination, do not teach or reasonably suggest all of the features recited in the pending claims.

As an initial matter, Applicant respectfully notes that the relevant technology can be described as a “crowded art” in which numerous advancements have been patented. To cite but one example, at least one of the references cited during the prosecution of this application was patented in the year 1911. Thus, not only have numerous incremental improvements in this art been afforded patent protection, the art has been advanced for many decades. For these reasons alone, Applicant respectfully asserts that the use of one of 35 U.S.C. 103 in rejecting the pending claims should be used sparingly.

The number of years during which the relevant technology has evolved also tends to bolster the Applicant’s arguments related to the unobviousness of the differences between the claimed invention and the features taught in the prior art. In this regard, Applicant respectfully notes that the rejections currently pending with respect to the claims are only brought pursuant to 35 U.S.C. 103. Thus, the Office Action indicates that the features presently claimed are not disclosed in a single reference.

Applicant also respectfully notes that none of the cited references teaches the use of curved tabs on a movable member, which Applicant has identified as “an indicator” in the pending claims. Notably, the prior art of record that incorporates curved tabs uses these tabs with stationary members that are used to fix the position of a bookmark to a page of a book. Therefore, even if combined, the cited art does not teach or reasonably suggest the use of such curved tabs with an indicator.

In this regard, claim 1 recites:

1. A bookmark for use with a book, said bookmark comprising:  
a thin, flat, rectangular body having two long and two short edges;  
***an indicator or indicators*** each comprising a thin, flat collar in frictional contact with the rectangular body wherein the indicator or indicators are ***movable up and down the rectangular body*** to direct the attention of a reader to a particular point or points in a text; and  
a thin, flat, rectangular tab formed by two parallel cuts and a lower cut displaceable out of the rectangular body in such a region that the bookmark may be restrained by hooking it over the top of a page;  
***wherein the or each indicator is formed by cutting or punching blanks from sheets of material, each blank having two, parallel cuts of such a length that the rectangular body may be interlaced with the indicator or indicators and wherein each of the two parallel cuts curve inwardly for a short distance near their ends thus forming opposing frictional bearing surfaces upon which the long edges impinge.***

(Emphasis Added).

Applicant respectfully asserts that the cited art, either individually or in combination, is legally deficient for the purpose of rendering claim 1 unpatentable. In particular, Applicant respectfully asserts that none of the references or combinations thereof teaches or reasonably suggests at least the features/limitations emphasized above in claim 1. Therefore, Applicant respectfully asserts that claim 1 is in condition for allowance.

Since claim 2 is a dependent claim that incorporates the limitations of claim 1, Applicant respectfully asserts that this claim also is in condition for allowance. Additionally, this claim recites other features/limitations that can serve as an independent basis for patentability.

With respect to claim 3, Applicant has amended this claim to recite:

3. A bookmark for use with a book, said bookmark comprising:  
a thin, flat, rectangular body having a periphery defined by two long edges and two short edges;  
an indicator comprising a thin, flat collar in frictional contact with the rectangular body, wherein the indicator is movable along a length of the rectangular body to direct attention of a reader to a line of text of the book to which the bookmark is attached; and  
a thin, flat, rectangular tab defined by two opposing cuts and a lower cut, the rectangular tab being displaceable out of the rectangular body

in such a region that the bookmark may be restrained by hooking it over the top of a page;

wherein the indicator is formed from a sheet of material, the indicator having a front side, a back side and two cuts extending from the front side to the back side, the two cuts being located within the periphery of the indicator such that the collar is defined by a contiguous frame of the sheet material that surrounds the two cuts, the two cuts being of such a length that the rectangular body is interlaced with the indicator such that the rectangular body extends from the front side of the indicator, through a first of the cuts to a back side of the indicator and then through a second of the cuts to the front side of the indicator;

***wherein each of the two cuts incorporates a curve located at each end thereof thus forming curved tabs that operate as opposing frictional bearing surfaces upon which the long edges of the rectangular body impinge; and***

***wherein the curve located at each said end of the first of the two cuts extends inwardly toward the corresponding curve located at each said end of the second of the two cuts.***

(Emphasis Added).

Notably, Applicant has amended claim 3 to incorporate features similar to those previously recited in claim 6. The differences, however, relate to providing direct antecedent basis for the claim language. Therefore, the incorporation of the elements of claim 6 into claim 3 should not necessitate a new search.

Applicant respectfully asserts that the cited art, either individually or in combination, is legally deficient for the purpose of rendering claim 1 unpatentable. In particular, Applicant respectfully asserts that none of the references or combinations thereof teaches or reasonably suggests at least the features/limitations emphasized above in claim 1. Specifically, Applicant respectfully notes that the cited art of record, although arguably teaching curve tabs on stationary members, does not, however, teach curved tabs on a movable member. More notably, the cited art of record appears to teach away from the use of such curves as recited in claim 3. In this regard, Applicant respectfully directs the Examiner's attention to *Hupp* and Figures 9 and 11, which appear to show the use of curves on stationary members. Notably, these curves do not extend inwardly toward each other such as is generally recited in claim 3.

In fact, the opposite appears to be true. Therefore, for at least these reasons, Applicant respectfully asserts that claim 3 is in condition for allowance.

Since claims 4 and 5 are dependent claims that incorporate the limitations of claim 3, Applicant respectfully asserts that these claims also are in condition for allowance. Additionally, these claims recite other features/limitations that can serve as an independent basis for patentability.

**Cited Art Made of Record**

The cited art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

### CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

  
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on 10/17/06.

  
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Signature